Before The
Federal Communications Commission
Washington, DC 20554

January 2, 2003

In the Matter of)
)
2002 Biennial Regulatory Review-Review of the) MB Docket No. 02-277
Commission's Broadcast Ownership Rules and)
Other Rules Adopted Pursuant to Section 202 of)
the Telecommunications Act of 1996)
)
Cross-Ownership of Broadcast Stations and) MM Docket No. 01-235
Newspapers)
)
Rules and Policies Concerning Multiple) MM Docket No.
01-317
Ownership of Radio Broadcast Stations)
In Local markets)
)
Definition of Radio Markets) MM Docket
No. 00-244

Comments of
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Opening Summary

I wish to comment on the possibility of changes to the rules concerning Broadcast Station Ownership. I am a broadcast technician, who has worked in the industry for over 33 years. In that time, I have worked in both commercial and public broadcasting and in both radio and TV. I have worked for a independent owner which owned a newspaper, an AM station and a small TV station, a group owner with newspapers and TV and radio stations, an independent FM station and a state wide public TV and radio network. The views that I express are mine and may not represent any views of my employer.

I am not going to address any of the studies that the Commission has released, due to the fact that as an individual, there is no way that I can prove or disprove the conclusions in the reports. I also feel that many of the writers of the studies may of been chosen because they may support preconceived views of the Chairman, Commissioner's or others in the Commission.

I do not believe that we should return to the days of the old 7-7-7 rules for Broadcast stations, but the ownership rules should not become so non-existent that broadcasting becomes the voice of a few select owners. The 7-7-7 rules were obsolete long before they were discarded. They discouraged growth and innovation in the broadcast industry and limited competition. Looking back to that era, it seems that the broadcast owners at the time, particularly in TV may have even likes the rules as it limited other broadcasters from moving into their markets and increasing competition. That limited all of us to just the three networks and maybe a public station well into the Seventies.

Now it seems that many large broadcasters would like to limit competition again by being able to buy up as many stations that they can afford and then some. I believe it has already occurred in many radio markets. Most of the markets look like TV did before the early eighties with 3 or 4 owners controlling all of the commercial stations. The only independent voices are the public and religious stations and in many cases they are not local, but part of a state network in the case of public stations and a nationwide network in the case of religious stations.

In this notice, diversity and choice is brought up in much of the discussion of TV and newspaper and TV-radio crossownership. It seems that the ownership rules that have been implemented so far and may be proposed run counter to the rest of the marketplace.
In 1970, I had the choice of a few department store chains, Sears, Penny's, Wards and a few local stores, Now I have Sears and Penny's along with Target, Walmart, Kohls, K-mart and two or three regional chains. The same goes for restaurants. There were the local diners and dinner clubs, the A and W, McDonalds and Kentucky Fried Chicken. Now besides those, there's Pizza Hut, Wendys, Red Lobsters, Arby's Denny's etc. and there are still many locally owned establishments. It goes on with many other types of businesses.

Broadcasters and others who supply us with programming may be giving us a bigger menu by supplying us with more channels, but we have fewer choices of suppliers and the menu is looking the same from many of the broadcast/cable suppliers. I do not seem to see a lot of difference between my local WB, Fox or UPN station and the USA Network, TNN, TNT, TBS, Fox FX, ABC Family, Lifetime, Hallmark, WE and TVLand, They all look like an local independent broadcast TV station which no longer exists because of these cable networks.

I wish to make comments on TV Doulopy, TV National Ownership limits, Newspaper-broadcast crossownership and the determination of a radio market for determining local ownership limits.

TV Duolopy

Any changes in television doulopy rules will affect different size markets in different ways. An increase in the number of doulopies allowed in the largest markets will probably have little effect on diversity of broadcast voices. In the smallest markets in the country, the impact will be significant where a market could end up with only one or two voices. We have been able, with the help of the new national networks as programming sources, to increase the number of choices that are available in small markets in the last 10 to 15 years.

One of things that has struck me about the request for the FCC allowing the creation of duopolies is that very few stations owners took advantage of Low-power TV or used retransmission negotiations with local cable systems to add an additional outlet in their market. There were no rules against having a full power TV station and any number of low-power stations in the same market, but few broadcasters took advantage of LPTV. One example of using LPTV as a second outlet is Weigel Broadcasting in Milwaukee. They have a Channel 58 full power CBS TV station and 2 LPTV Stations that cover most of metro Milwaukee. One LPTV station programs Spanish language programming and the other presents syndicated programs along with local sports. They have upgraded the stations as the rules have allowed for to get the best coverage possible and it is comparable to a couple of full power stations in the market with short tower sites. In Madison, WI, WISC-TV the local CBS TV station programs a cable station as a UPN affiliate. They also carry University of Wisconsin Sports from time to time. With cable interconnection, they cover much of the same area as the over-the-air station. The UPN station is also a second signal on their DTV signal.

Another issue to consider in the doulopy issue is the transition to DTV. There are two points to consider. The first is that stations will be able to have additional programming outlets by the use of multicasting. I believe that stations will do both HDTV and multicasting as the library of existing programming is not in HDTV and not all new programming needs to be HDTV. This will give stations bandwidth to use for additional program streams. In England, they have built the business model for DTV with multicast with something called FreeView. Each off the five TV services in England are multicasting six program streams for a total of 30 program channels and promoting a whole thing has being like a free 30 channel cable or satellite system. I see no reason for US broadcasters not to follow the same model for all or part of the day. In fact, Broadcasting and Cable magazine, in an issue last August, proposed the same they of business model to increase interest in DTV here.

The second issue with the DTV transition is that we have a freeze on new TV stations at least until the existing stations make their final channel choices known and there cannot be new growth in the TV broadcast band until analog transmission ceases. Any allocation of TV spectrum to uses other then television within the core TV band will also affect any future growth.

Without any possible growth avenues at this time, there is no escape valve for the creating of new TV outlets if the Commission finds that diversity of voices is inadequate. The Commission could be faced with the same complaints with TV as they had in radio that lead to the creation of Low-power FM.

Another issue I have is that I believe the Commission under estimates the impact of over-the-air broadcasting. While 86% of the homes may pay for some kind of additional TV programming, the method that they receive local TV stations has little to do with how they receive paid programming. By the numbers the Commission stated in its notice on this rule making, the 65% of the homes that have cable can be considered has receiving local television by the same method as they receive their paid programming. In most cases, those that receive programming from direct satellite broadcasting and MMDS are likely to get over-the-air broadcasting via an antenna. With DBS, local stations are available in larger markets only and at an additional cost and in MMDS, channel capacity is limited. The very nature of SMATV requires off-the-air reception at the apartment, condominium, or hotel complex. There are also second, third or fourth sets on homes that are not connected to pay services and sets in vacation homes, RV's and in office and industrial areas that are not served by cable.

While not totally adverse to some increase in the allowance of TV doulopies, particularly in the largest markets, I would like to see the Commission continue the existing rules concerning TV Doulopies. If any increase in TV doulopies should occur, the rules should parallel the Dual Network rule as the current duopoly rules do with an owner being limited ownership of only one ABC, CBS, Fox or NBC affiliate, the second station could then be a UPN, WB, PAX, or an independent or ethic station. I believe that limiting ownership to only one of TV stations holding affiliation to one of the big four Network will help to insure that many of the existing news voices will continue in most markets. Small market doulopies should still be limited to hardship causes such as allowing the purchase of a failing or unbuilt station. In a market with 3, 4 or 5 stations, allowing duopolies will reduce the number of TV voices to 2 or three and probably prohibit one or more of the stations from even having an opportunity to purchase a second station, placing them a disadvantage. Also each station with a doulopy would have to own two stations affiliated with ABC, CBS, NBC or FOX which would probably mean that currently separate news operations would be merged.

National TV Ownership Limits

Changes in the way national ownership limits should be taken with great care. Most of the national ownership limits affect those owning stations in the largest markets which would be mainly those stations owned by the networks. Ownership limits in small markets are of little issue as one could own around 150 markets before hitting the 35% reach limit if one started from the smallest market and went up. Going from the top would limit one to a little less than 20 markets. The main issue here is the control of the distribution system of the over-the air networks. They already have nearly 100% coverage of their programming and each of the networks own several cable networks which already has greatly reduced diversity in television broadcasting. I believe that the reach of the networks that are commonly owned, whether over-the-air or cable should be factored, into the discussion.

One example of how this consolidation has affected local television is in sports programming. There used to be regional sports networks set-up in a teams market area with a station in the team's hometown serving as flagship for the network. Other stations paid to carry the network and the team could get coverage over its whole fan base. This coverage via local TV became rather far reaching in the early 80's when there was a boom in the start-up of independent UHF stations. With the growth of FOX station clearances became harder to get for the sports networks and then the sports rights moved to ESPN, FOX Sports Net and others which also controlled sports nets to local stations with programming arms such as ESPN Plus. The loser in this change has been the sports fan who does not subscribe to program service and no longer watch his team on over-the air TV and the local station that received additional revenue from operating the sports network.

Another potential problem could be the use of centralcasting, where a owner programs a number of stations from one site that maybe hundreds of miles away. The operators at this central location will be unaware of things such as changes in the weather in the stations service area and could be unable to react to inform the public. They centralcast operation may also produce all or part of the news from the same central site which could reduce the amount, if not the depth of local news.

Knowing that the Commission must meet objectives of Court orders, I would hope that the Commission shows restraint in the further relaxation of the ownership limits of TV stations. The network and affiliate system and relationship has work well for many years and the Commission should not impair it.

Dual Network Rules

The Commission should leave the Dual Network Rules as is for the time being. Other then the CBS-UPN merger under Viacom and the NBC-Telemundo merger, there has not been a big rush to create or purchase second networks. One change that the Commission could consider is allowing the Big Four Networks to be able to fed their cable networks to local affiliates for multicasting on their DTV stations. I could see as an example, a NBC station carrying CNBC and MSNBC in a multicast signal during the day while airing a soap opera or a talk show. This may help to increase the interest in DTV by giving the public some new services which than maybe considered a reason to purchase a DTV set or tuner.

Newspaper-Broadcast Cross-Ownership

I believe that this rule had a definite effect on localism in broadcasting when the FCC enacted it. I believe that many good local newspaper-broadcast groups were broken up when owners retired or died and they could not meet the rules when transferred to heirs or other local owners. Many of these stations and papers were sold to buyers from outside the community whom did not live there and no doubt owned other properties in other communities, Unfortunately, we can not go back in time and the newspaper industry has changed as much as the broadcast industry has. Consolidation has hit the newspapers as much as it has in broadcasting. Papers are no longer owned by a local group or family, but rather by large corporations. Most larger dailies own nearby suburban dailies or weeklies and shoppers. Some groups have clustered newspapers among adjacent cities, so they could have a number of good sized dailies in signal TV Market. One example is the Green Bay area in Wisconsin. Gannett owns daily newspapers in Green Bay, Appleton, Oshkosh, Sheboygan, Manitowoc and Fond du Lac. These cities are all served in all or part by the Green Bay TV stations. Gannett also owns another similar cluster in the Wausau area. If Gannett would purchase a TV station in either of these markets, there control of editorial content and ad revenue would be significant. If allowed a duopoly TV arrange and maybe a number of radio outlets with further relaxation of ownership rules and they could dominate the marketplace.

I f the Commission should allow any newspaper-broadcast crossownership, the rules must be aware of the difference of someone owning a weekly newspaper and a small radio station and someone owning a cluster of papers and a group of radio stations or a TV station. In a newspaper-broadcast crossownership situation if allowed, I believe that the number of broadcast facilities that one could own should be reduced and the market should be defined by the circulation area of paper, if it is larger than the radio or TV market.

Multiple Ownership of Radio Stations in a market and the Definition of a Radio Market

I believe that the Commission does have a problem in calculating the size of a radio market and the number of stations on can own in a market. These problems stem from past deregulation and the games people play with lower powered stations signal coverage.

The problems the stem from past deregulation come from the reduction on the contour used in figure overlap of signals for ownership proposes in FM and the change in the studio location rules. Before the contours were reduced for figuring ownership limits, stations could not overlap their 1 millivolt (60 dbu) contour and still be considered as separate markets for ownership proposes. The Commission reduced the overlap area by allowing the contour to be increased to the city service contour of 3.16 millivolt (70 dbu). This allowed stations to under common ownership to be located closer together. Then when ownership of multiple FM’s in a market occurred, the silly games begun. As an example, say I was allowed to own four FM stations in a market. Two of the stations were Class B’s with transmitters in the same area. I own two Class A’s east of the Class B transmitters and two Class A’s west of the Class B transmitters. Neither of the Class A’s east of the Class B transmitter 3.16 millivolt signals overlap with the two western Class A’s. For proposes of counting for the ownership limit, I have four stations in the east side and four on the west side. Each of the two eastern Class A's count against the each other and the two Class B's in the eastern side. The two Class A's to the west, count against each other and against the two Class B's in the western side. But the trick under the current rules is the two eastern Class A stations do not count against the two in the western side. If the 3.16 dbu contours are close to each other and the Class B transmitters, most of the central part of the market will be receive all six of the stations easily which would give me in effect six stations in the market.

Besides this problem of contours, there is another signal level problem. The commission uses the 1 millivolt contour (.5 millivolt for Class B stations) for figure the interference contour and normally considers it an FM stations coverage area. The actual coverage area if much greater on all but the cheapest radios. Most car and home stereos can receive stations to the .1 to .25 millivolt range (40 to 48 dbu). The only limitation to reception of stations at those levels may be that the autoscan feature may be set to find stations at a higher signal level then what you can receive when the radio is manually tuned. This may put some weaker stations at a disadvantage.

Because the real coverage is higher than the rules figure, owners have moved stations as near as possible to larger markets where they may have other stations and then use the 25 mile studio rule to relocate the distance stations studio into the larger market. They then sell the station as being in the same market as there other stations which also increases their market influence.

The easiest way to settle this would be to just say you can have X number of stations within the area the ratings service as listed as being in a market. That works until you two markets that are basically adjacent counties. An example is the Green Bay and Appleton-Oshkosh markets. The distance between Oshkosh and Green Bay is 35 miles with Appleton and most of the transmitters in between them. Most stations can be heard in both markets. If the ownership rules were to be based on market area and one owned the maximum number of stations in each market, one could listen to 8 to 12 stations under common ownership.

Another consideration is that most radio listening today is local and on FM, particularly by younger listeners. When I was a teenager in the sixes living in east central Wisconsin, we would listen to Milwaukee and Chicago AM stations and the clear channel stations from other part of the US at night. Now my kids listen to the same local station as their friends and when I have a station from out of my local market, they give me looks as if I was crazy. With the increase in local listening and the consolidation of local radio, the lost of diversity has to have an impact on the listener

I feel that the best method for figuring out the number of radio stations one can own in a market is use the coverage area of the largest station as the reference with all commonly owned stations under that contour counting against the ownership limit. In other words if you are allowed four FM stations as in my example, each one would count against the station with the most coverage whether it is a commonly owned AM or FM.

Final Summary

In the last fifteen years we have discarded many ownership rules that stood for nearly forty-five to fifty years. Many of them were due for revision due to the increases in the number of stations from the time they were originally written. But, the Commission must be aware that because of the fact there is little or no available spectrum, it will be difficult to correct any errors by the unbridled loosing of ownership limits. Unlike other industries, broadcasting and the other wireless industries totally relay on government permission and regulation for the right to operate. Should the government allow one company to own 10-15% or more of all commercial radio stations. Should ones local radio listening and TV viewing be limited to that supplied by a handful of providers when just about everything else one buys is supplied by wider range of suppliers big and small. There is still room for the local hardware, garden, or furniture store even in the world of Walmarts and Home Depots. Broadcasting should be no different.

We have entered an era were competitors have joint business partnerships that many people do not even realize. We have to retain some kind of ownership regulation or else we may find us with ten more USA's and TNT networks and no local news. Innovation in broadcasting has not been from the largest broadcasting companies, but from the smallest that were struggling to survive. Remember TBS, TNT and CNN came from a company that was running a struggling UHF station in Atlanta, not one of the big three networks or one of the big affiliated group owners.

The Commission needs to consider the needs and survival of both large and small broadcasters. We have seem to many other industries vitality damaged by the unbridled growth of large corporations. In the Midwest, we are very much aware of this by watching the changes in farming. It has gotten to the point that with only a few corporations controlling only parts of the industry, no one can survive in the rest of the farm industry. As consolidation has increased in broadcasting, its vitality also is seeming to decrease as views and listeners turn to other program sources out of frustration. Those asking for the right to own more stations must also look at the future and question if getting bigger and catering to Wall Street and extreme profit demands cause decision that will turn more viewers and listeners away.

I know there is great pressure from broadcast industry lobbyist and some members of Congress along with some within the Commission to make significant changes and greatly deregulate the ownership rules, but it is just as important to balance the interest of both the small broadcaster with the wishes of the large corporations. My comments may not have directly related to the questions that the Commission raised in its notice, but these examples and comments do show the concerns that I and many my friends have for the changes in the broadcast industry.

Finally, I believe that a marketplace is not truly a free market unless there is a opportunity and a place for anyone to participate at some level of ownership.

Respectfully Submitted

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